

Amendment to 03-O-0409**To the 8th "WHEREAS" clause, make the following additions:**

After "do not provide health insurance to their employees," add "and many such businesses discriminate based on marital status and sexual orientation in their employee benefit plans,"

After "affecting employee," add the word "morale,"

so that the current 8th "WHEREAS" clause would read:

WHEREAS, many businesses benefiting from City funds or property do not provide health insurance to their employees, and many such businesses discriminate based on marital status and sexual orientation in their employee benefit plans, adversely affecting employee morale, performance and absenteeism, increasing the burden on the taxpayers of caring for the uninsured through local and state health programs; and

To the current 13th "WHEREAS" clause, make the following additions:

After "provide a living wage and health benefits to their employees," add the phrase "that they do so on a non-discriminatory basis,"

Change "practice pay equity, and refrain from using public money" to "that they practice pay equity, and that they refrain from using public money"

So that the current 13th "WHEREAS" clause would read:

WHEREAS, it is the purpose of this policy to ensure that businesses benefiting from taxpayer funds or the use of City property provide a living wage and health benefits to their employees and that they do so in a nondiscriminatory manner, that such businesses practice pay equity, and that they refrain from using public money and public property for inappropriate purposes, thus enhancing the welfare of workers in Atlanta, therefore

Add two new "WHEREAS" clauses:

WHEREAS, the City is concerned that unmarried employees in committed domestic relationships, including lesbian and gay employees, may receive unequal employment compensation because they are denied valuable employee fringe benefits that recognize and protect their domestic partners in a manner comparable to those benefits offered to employees with spouses;

WHEREAS, it is the policy of the City to ensure that, to the extent possible, businesses benefiting from the receipt of City contracts or funds or the use of City property do not

discriminate against their employees in Domestic Partnerships by denying them benefits comparable to those provided to other employees; and

To Section 1(b), make the following addition:

After the words "pay equity" add the phrase "and not discriminate against those in Domestic Partnerships in providing benefits."

To Section -- 3, Definitions. make the following changes:

In sections 3(c)(3) and 3(d)(3), change "for the purposes of this article" to "for the purposes of Sections 4(a) and 4(b) of this article."

To Section 3(h)(4), make the following change:

Change "Provided, however, *Employee* shall not mean" to "Provided, however, that for purposes of Sections 4(a) and 4(b) of this article, *Employee* shall not mean"

Add the following definitions to Section 3

Domestic Partner shall mean (a) any person registered as a domestic partner with any government entity, or (b) anyone living together with another person in the mutual interdependence of a single home who, with the other person, signs a declaration in which they attest

- (1) They share the same primary, regular and permanent residence and have lived together for the previous six months (documentation must be submitted verifying joint residency);
- (2) They have a committed personal relationship with each other that is mutually interdependent and intended to be lifelong;
- (3) They agree to be jointly obligated and responsible for the necessities of life for each other;
- (4) They are not married to anyone or legally separated from anyone;
- (5) They are 18 years of age or older;
- (6) They are competent to enter into a contract;
- (7) They are not related by blood closer than would bar marriage in the state;
- (8) They are each other's sole domestic partner;
- (9) They agree to file a termination of domestic partnership within 30 days if any of the facts set out in this definition change; an
- (10) Any prior domestic partnership in which their domestic partner participated with a third party was terminated not less than six months prior to the date of such affidavit

Benefits means any plan, program or policy provided by a Covered Employer to its Employees as part of the employer's total compensation package. Benefits includes, but is not limited to: pension and retirement benefits; medical, dental and vision plans or other health benefits; bereavement, family medical, parental and other leave policies; disability, life, and other types of insurance; employee assistance programs; memberships or discounts; moving expenses; access to facilities, services and events; travel and relocation expenses; incentive, stock option, and profit sharing plans and other compensation programs; vacation; travel benefits; and any other benefits given to Employees, provided that it does not include benefits to the extent that the application of the requirements of these rules to such benefits may be preempted by federal or state law.

Change the Title of Section 4 to "Living Wage, Health Benefits, and Nondiscrimination in Benefits" and add the following subsections:

(f) A Covered Employer shall not discriminate by policy or practice in the provision of Benefits between an Employee with a Domestic Partner and an Employee with a spouse. Any Benefit provided in any manner contingent upon the existence of a marital relationship must also be provided to an Employee who has a Domestic Partner. The provisions of this paragraph apply to a Covered Employer in all of its locations in Atlanta or elsewhere in the United States where work relating to a City Contract is being performed.

(g) A Covered Employer shall be deemed in compliance with Section 4(f) in the following circumstances:

The Covered Employer allows every Employee to designate one legally domiciled adult member of the employee's household, and any legally dependent children of that household member, for inclusion within the employee benefits program.

The Covered Employer provides benefits neither to Employees' spouses nor to Employees' Domestic Partners.

The CCO determines that the Covered Employer is the only prospective contractor willing to enter into an agreement with the City, or the prospective is a sole source provider of the needed goods or services, or interest in real property;

The awarding authority declares an emergency, and the CCO determines that there are no prospective contractors in compliance who can perform the work necessary to end the emergency;

The City Attorney certifies in writing that specialized litigation requirements mandate the use of the Covered Employer.

- (6) The CCO determines that the Covered Employer is a public entity that can provide the City with goods, services or an interest in real property of a quality or accessibility that is not available from another source, or that the agreement is necessary to serve a substantial public interest.
- (7) The CCO determines that there are no other qualified responsive bidders or prospective contractors who are in compliance and the agreement is essential to the City or City residents
- (8) The agreement is pursuant to bulk purchasing arrangements through federal, State or regional entities which actually reduce the City's purchasing costs.
- (9) The Covered Employer cannot comply with the requirements of Section 4(d) because those requirements are inconsistent with a grant or agreement with a public agency.

(h) The requirements of Section 4(f) do not apply to the following contracts:

- (a) The investment of trust moneys or agreements relating to the management of trust assets;
- (b) The investment of city moneys in U.S. government securities or under pre-existing investment agreements;
- (c) The investment of city moneys where the Chief Financial Officer finds that no compliant entity is capable of performing the desired transactions or the city would incur a financial loss in violation of the Chief Financial Officer's fiduciary duty; or
- (d) Contracts in which the CCO determines that the services provided by the Covered Employer are services the City would otherwise perform in its regulatory capacity.

(i) In limited circumstances, the CCO may grant a "Reasonable Measures Authorization" to a Covered Employer to provide Employees with a Cash Equivalent Payment in lieu of Benefits that are unavailable due to circumstances outside of the Covered Employer's control. The authorization does not relieve the Covered Employer of its obligation to provide all other Benefits it offers on an equal basis.

The CCO will evaluate each request for Reasonable Measures Authorization on a case-by-case basis and decisions will be based on a consideration of such factors as:

1. The numbers of benefits providers identified and contacted by the Covered Employer and verified responses from these providers that they will not provide equal benefits coverage;
2. The existence of benefits providers willing to offer equal benefits coverage to the Covered Employer;
3. The existence of federal or state laws that preclude the Covered Employer from providing equal benefits.

If the CCO approves the Reasonable Measures Authorization, the Covered Employer must provide to Employees with a Domestic Partner a Cash Equivalent Payment. The "Cash Equivalent Payment" shall be the amount of money paid by the Covered Employer for the Benefit given to a similarly situated Employee. To the extent that a Covered Employer limits the availability of any Benefit to the spouses of Employees, or vice versa, the availability of a Cash Equivalent Payment may be similarly limited. The Cash Equivalent Payment shall be made either on the same schedule as the Covered Employer uses for the Benefit given to Employees with spouses, or, if no such schedule exists, on another schedule so long as such payment is made no less than once per month. No Cash Equivalent Payment will be required where making such a payment would violate federal or state law.

Add to Section 5(b), after "immediate family":

After the words "immediate family" insert a comma and add the phrase "including his or her Domestic Partner,"

To Section 10 make the following changes:

In Sections 10(b)(3) and 10(b)(4), change "recipient's" and "recipient" to "Covered Employer's" and "Covered Employer," respectively.

To Section 11(b), make the following addition:

In section 11(b), add a new subsection (4):

- (4) An enumeration of the Benefits currently provided with a confirmation that every Benefit provided to Employees with spouses is provided on equal terms to Employees with Domestic Partners.

To Section 11(d), make the following addition:

After the words "Health Benefit Rates," add the phrase, "Nondiscrimination in Benefits Requirements,"

So that the new Section 11(d) will read:

- (d) Every Contractor or Beneficiary, including covered subcontractors, . . . shall post in a conspicuous place at any job site subject to this article an explanation of the current Living Wage and Health Benefits Rates, Nondiscrimination in Benefits Requirements, and other worker protections, conferred under this article.

To Section 12(b)(5), add the following:

At the end of the current section, add a comma and the phrase, "or for a period of two years, whichever is longer."